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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ELIZABETH CROSBY, an individual,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, a Wisconsin
corporation; and DOES I through X, and
ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No.: 2:15-cv-01935

**STIPULATION AND ORDER
TO DISMISS CERTAIN
CAUSES OF ACTION AND
REMAND TO STATE COURT**

Plaintiff, ELIZABETH CROSBY, by and through her attorney of record, Andrew Barton, Esq., of BAKER LAW OFFICES, and Defendant AMERICAN FAMILY MUTUAL INSURANCE COMPANY, by and through its attorney of record, Scott A. Flinders, Esq. of HUTCHISON & STEFFEN, LLC, hereby submit this Stipulation and Order to Dismiss Certain Causes of Action and Remand to State Court.

I.

FACTUAL AND PROCEDURAL SUMMARY

This matter arises out of an October 24, 2014 motor vehicle accident wherein Plaintiff alleges she was injured. At the time of that accident, Plaintiff held a UM/UIM policy through Defendant. Plaintiff made a claim on that policy in February 2015, though Defendant has made no payment on that claim since it was made. As such, Plaintiff filed a

1 complaint in the Eighth Judicial District Court, Clark County, alleging breach of contract,
2 unfair claims practices, and breach of implied covenant of good faith and fair dealing. That
3 complaint was filed on September 8, 2015. Subsequently, Defendant removed the matter to
4 the United States District Court, District of Nevada, on October 8, 2015. The basis for the
5 removal was diversity of the parties under 28 U.S.C. § 1332, 28 U.S.C. § 1441(a), and 28
6 U.S.C. § 1446(a) and (b). Defendant also filed its Answer to Plaintiff's Complaint at that
7 time.

8 II.

9 STIPULATION

10 IT IS HEREBY STIPULATED AND AGREED, by Plaintiff, ELIZABETH
11 CROSBY and Defendant AMERICAN FAMILY MUTUAL INSURANCE COMPANY, by
12 and through their undersigned counsel:

13 1. That the following causes of action included in Plaintiff's Complaint, be
14 DISMISSED with prejudice: Unfair Insurance Practices, Contractual Breach of Implied
15 Covenant of Good Faith and Fair Dealing, and Tortious Breach of Implied Covenant of Good
16 Faith and Fair Dealing.

17 2. That Plaintiff's only cause of action for Breach of Contract will remain in the
18 subject case.

19 3. That with the dismissal of the causes of action for Unfair Insurance Practices,
20 Contractual Breach of Implied Covenant of Good Faith and Fair Dealing, and Tortious
21 Breach of Implied Covenant of Good Faith and Fair Dealing, the total amount in controversy
22 for the remaining Breach of Contract claim does not exceed \$75,000.

23 4. That Plaintiff, ELIZABETH CROSBY, will make no claims for Unfair
24 Insurance Practices, Contractual Breach of Implied Covenant of Good Faith and Fair
25 Dealing, and Tortious Breach of Implied Covenant of Good Faith and Fair Dealing in this
26 matter.

27 5. That because the amount in controversy does not exceed \$75,000, diversity
28 jurisdiction is not present.

1 6. That this case be remanded to the Eighth Judicial District Court, Clark
2 County, Case No. A-15-724245-C, to allow Plaintiff to pursue her Breach of Contract claim
3 in Nevada state court.

4
5 IT IS SO STIPULATED.

6 Dated this 20th day of January, 2016

 Dated this 20th day of January, 2016

7
8 /s/ Andrew Barton
9 Lloyd W. Baker, Esq.
10 Nevada Bar No.: 6893
11 Andrew Barton, Esq.
12 Nevada Bar No. 12692
13 BAKER LAW OFFICES
14 500 S. Eighth Street
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16 Attorneys for Plaintiff

/s/ Scott A. Flinders
 Scott A. Flinders, Esq.
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ORDER DISMISSING CERTAIN CAUSES OF ACTION AND REMANDING TO
STATE COURT

IT IS HEREBY ORDERED, in accordance with the parties' stipulation, that Plaintiff's claims for Unfair Insurance Practices, Contractual Breach of Implied Covenant of Good Faith and Fair Dealing, and Tortious Breach of Implied Covenant of Good Faith and Fair Dealing are DISMISSED with prejudice;

IT IS FURTHER ORDERED, that Plaintiff shall make no claims for Unfair Insurance Practices, Contractual Breach of Implied Covenant of Good Faith and Fair Dealing, and Tortious Breach of Implied Covenant of Good Faith and Fair Dealing in this matter;

IT IS FURTHER ORDERED, that the above matter be remanded back to the Eighth Judicial District Court, Clark County, under case number A-15-724245-C, as diversity jurisdiction is not present under 28 U.S.C. § 1332, 28 U.S.C. § 1441(a), and 28 U.S.C. § 1446(a) and (b).

IT IS SO ORDERED.

Dated: January 20, 2016.


UNITED STATES DISTRICT JUDGE

Respectfully submitted by:

/s/ Andrew Barton
Lloyd W. Baker, Esq.
Nevada Bar No.: 6893
Andrew Barton, Esq.
Nevada Bar No. 12692
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